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OCT - 7 2014
CENTRAL DISTRICT OF CALIFORNIA BY <i>[Signature]</i> DEPUTY

1 DARON L. TOOCH (State Bar No. 137269)
 ERIC D. CHAN (State Bar No. 253082)
 2 KATHERINE M. DRU (State Bar No. 280231)
HOOPER, LUNDY & BOOKMAN, P.C.
 3 1875 Century Park East, Suite 1600
 Los Angeles, California 90067-2517
 4 Telephone: (310) 551-8111
 Facsimile: (310) 551-8181
 5 E-Mail: dtoocho@health-law.com

6 Attorneys for Plaintiffs and Counter-
 Defendant Providers

7 **UNITED STATES DISTRICT COURT**
 8 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**
 9

HOOPER, LUNDY & BOOKMAN, P.C.
 1875 CENTURY PARK EAST, SUITE 1600
 LOS ANGELES, CALIFORNIA 90067-2517
 TEL: (310) 551-8111 • FAX: (310) 551-8181

10 ALMONT AMBULATORY
 11 SURGERY CENTER, LLC, *et al.*,
 12 Plaintiffs,
 13 vs.
 14 UNITEDHEALTHGROUP, INC., *et*
al.,
 15 Defendants.

CASE NO. 2:14-cv-03053-MWF
 (VBKx)

**APPLICATION TO FILE
 EXHIBITS TO DECLARATION OF
 JAFFY PALACIOS UNDER SEAL
 PURSUANT TO LOCAL RULE 79-
 5.1**

Date: December 8, 2014
 Time: 10:00 a.m.
 Crtrm.: 1600

17 UNITED HEALTHCARE SERVICES,
 INC., *et al.*,
 18 Counter-Plaintiffs,
 19 vs.
 20 ALMONT SURGERY CENTER, LLC,
 21 *et al.*,
 22 Counter-Defendants.

The Hon. Michael W. Fitzgerald

Trial Date: None Set

HOOPER, LUNDY & BOOKMAN, P.C.
 1875 CENTURY PARK EAST, SUITE 1600
 LOS ANGELES, CALIFORNIA 90067-2517
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1 Pursuant to Local Rule 79-5.1, Counter-Defendants ALMONT
 2 AMBULATORY SURGERY CENTER, LLC, BAKERSFIELD SURGERY
 3 INSTITUTE, LLC, INDEPENDENT MEDICAL, MEDICAL SERVICES, INC.,
 4 MODERN INSTITUTE OF PLASTIC SURGERY & ANTIAGING, INC., NEW
 5 LIFE SURGERY CENTER, LLC dba BEVERLY HILLS SURGERY CENTER,
 6 LLC, ORANGE GROVE SURGERY CENTER, LLC, SAN DIEGO
 7 AMBULATORY SURGERY CENTER, LLC, SKIN CANCER &
 8 RECONSTRUCTIVE SURGERY SPECIALISTS OF BEVERLY HILLS, INC.,
 9 VALENCIA AMBULATORY SURGERY CENTER, LLC, WEST HILLS
 10 SURGERY CENTER, LLC, ALMONT AMBULATORY SURGERY CENTER,
 11 BAKERSFIELD SURGERY INSTITUTE, INC., CIRO SURGERY CENTER,
 12 LLC, EAST BAY AMBULATORY SURGERY CENTER, LLC, SKIN CANCER
 13 & RECONSTRUCTIVE SURGERY SPECIALISTS OF WEST HILLS, INC.,
 14 VALLEY SURGICAL CENTER, LLC, TOP SURGEONS, INC., TOP
 15 SURGEONS, LLC, TOP SURGEONS, LLC (NEVADA), WOODLAKE
 16 AMBULATORY, PALMDALE AMBULATORY SURGERY CENTER, a medical
 17 corporation, 1 800 GET THIN, LLC and SURGERY CENTER MANAGEMENT
 18 (together, the "Providers") hereby apply to this Court for an Order to file under seal
 19 the exhibits attached to the Declaration of Jaffy Palacios in Support of the
 20 Providers' Motion to Dismiss the First Amended Counterclaim.

21 These nine exhibits are excerpts of medical and billing records that pertain to
 22 the United Members (e.g., patient examples) that have been alleged in the United
 23 Defendants' First Amended Counterclaim (FACC). As set forth in the Palacios
 24 Declaration, these records rebut and flatly contradict many of the FACC's most
 25 inflammatory allegations, such as the accusation that the Providers billed for
 26 services never rendered to the United Members. The Palacios Declaration Exhibits
 27 contain sensitive Protected Health Information ("PHI") that is protected under the
 28 Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Pub.L. No.

2:14-cv-03053-MWF (VBKx)

1 104–191, 110 Stat. 1936 (1996). Further, the Exhibits are not voluminous and
 2 satisfy HIPAA’s minimum necessary requirement. *See* 45 C.F.R. § 164.502(b), *id.*
 3 § 164.514(d).

4 Exhibits Attached to the Declaration of Jaffy Palacios in Support of
 5 Providers’ Motion to Dismiss First Amended Counterclaim:

- 6 1. Exhibit A: Two pages of medical records for United Member 4.
- 7 2. Exhibit B: A single page letter from United Member 5’s independent
- 8 physician discussing that Member’s medical condition.
- 9 3. Exhibit C: Two pages of medical records for United Member 6.
- 10 4. Exhibit D: Five pages of medical records for United Member 7.
- 11 5. Exhibit F: Four pages of medical records for United Member 8.¹
- 12 6. Exhibit G: Two pages of medical records for United Member 9.
- 13 7. Exhibit H: Two pages of medical records for United Member 11.
- 14 8. Exhibit I: Four pages of medical records and four corresponding
- 15 HCFA-1500 claims submission form pages for United Member 12 (a total of
- 16 8 pages).
- 17 9. Exhibit J: One page of medical records and one corresponding UB-04
- 18 claim submission form for United Member 14 (total of two pages).

19 Neither this Order nor the Application itself shall be sealed.

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28 ¹ There is no Exhibit E to the Palacios Declaration.

1 If the Court denies this Application, the Providers request, in the alternative,
 2 that the Court issue an order permitting all exhibits attached to the Declarations of
 3 Jaffy Palacios in Support of Providers' Motion to Dismiss First Amended
 4 Counterclaim to be filed publicly. Pursuant to 45 C.F.R. § 164.512(e)(1)(i), PHI
 5 may be disclosed in a judicial or administrative proceeding "[i]n response to an
 6 order of a court" that "expressly authorize[s]" such a disclosure.

7
 8 DATED: October 6, 2014

HOOPER, LUNDY & BOOKMAN, P.C.

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 10
 11 By: /s/ Daron L. Tooch

DARON L. TOOCH

12 Attorneys for Plaintiffs and Counter-Defendant
 13 Providers
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7
 8 DATED: October 6, 2014

HOOVER, LUNDY & BOOKMAN, P.C.

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 10
 11 By: /s/ Daron L. Toooh

DARON L. TOOCH

12 Attorneys for Plaintiffs and Counter-Defendant
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